

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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EMMETT CALDWELL,

Plaintiff,

-v-

CITY OF NEW YORK et al,

Defendants.  
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21-cv-06560 (LJL)

ORDER

LEWIS J. LIMAN, United States District Judge:

On June 9, 2022, Plaintiff moved to vacate this Court's prior order denying service by publication and for this Court to recuse itself. Dkt. No. 53. Plaintiff also appears to seek vacatur of a prior order of this Court noting that the case would be dismissed if Plaintiff did not attend the June conference. *Id.* at 3.

On June 24, 2022, Magistrate Judge Aaron, to whom this case has been referred, denied this motion in part. Dkt. No. 56. Construing the motion as a renewed motion for service by publication, Magistrate Judge Aaron held that "[u]nder the circumstances of this action, the Court finds that service by publication is not reasonably calculated to apprise the unidentified defendants of the pendency of the action." *Id.* at 4. Specifically he stated:

At the outset, it is dubious that any of the unidentified defendants would even read a notice in some publication about this action. Moreover, the events at issue in this action occurred over 40 years ago and there is no basis to conclude that the unidentified defendants recall Plaintiff's name. Thus, even assuming the unidentified defendants read a notice about this action, it is not reasonable to conclude that they would understand that they are the individuals who Plaintiff intends to sue, such that they would become aware that there is an action pending against them.

*Id.* Magistrate Judge Aaron, however, reserved the remaining questions raised in the motion for attention by this Court. He stated: "Plaintiff's motion at ECF No. 53 also seeks recusal of Judge Liman and seeks to vacate prior Orders by Judge Liman. The undersigned respectfully defers to Judge Liman to rule on such issues." *Id.*

The Court denies the remaining issues raised in Plaintiff's June 9, 2022 motion (Dkt. No. 53). Plaintiff's request to vacate this Court's prior order denying service by publication is denied for the reasons stated by Magistrate Judge Aaron in his June 24, 2022 Opinion and Order. The Court also denies Plaintiff's request to vacate this Court's show cause order as moot. The case was never dismissed pursuant to the order. Instead, the case is pending and in the midst of

discovery. Finally, this Court denies Plaintiff's request for recusal. Plaintiff's recusal motion appears to be based solely on this Court's rulings, with which he disagrees. However, "recusal is not warranted where the only challenged conduct consists of judicial rulings, routine trial administration efforts, and ordinary admonishments . . . to counsel and to witnesses, where the conduct occurs during judicial proceedings, and where the judge neither (1) relies upon knowledge acquired outside such proceedings nor (2) displays deep-seated and unequivocal antagonism that would render fair judgment impossible. *See S.E.C. v. Razmilovic*, 738 F.3d 14, 29–30 (2d Cir. 2013).

SO ORDERED.

Dated: January 3, 2023  
New York, New York

A handwritten signature in black ink, appearing to read "L. Liman", written over a horizontal line.

LEWIS J. LIMAN  
United States District Judge